



Attorney Docket: 00028.09CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Joshua D. Rabinowitz, et al. ) Examiner: M. Haghighatian  
Serial No.: 10/766,149 ) Group Art Unit: 1616  
Filing Date: January 27, 2004 ) Confirmation No.: 1962  
For: DELIVERY OF SEDATIVE-HYPNOTICS )  
THROUGH AN INHALATION ROUTE )

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

INFORMATION DISCLOSURE STATEMENT

Applicant calls the Examiner's attention to the patents and publications listed on the attached Form PTO-1449, copies of required documents enclosed, which may be material to examination of the above identified application.

09/27/2005 HGUTEMA1 00000007 10766149

07 FC:1806

180.00 DP

TIME OF TRANSMITTAL

This Information Disclosure Statement is being submitted under 37 CFR § 1.97(c). This Statement is filed after three months from the filing date of the national application, after three months from the date of entry into national stage under 37 CFR § 1.491, after the mailing of a first Office Action on the merits, or after the mailing of a first Office Action after the filing of a request for continued examination under 37 CFR § 1.114, but before the mailing date of any of:

- (a) a final action under 37 CFR § 1.113;
- (b) a notice of allowance under 37 CFR § 1.311; or
- (c) an action that otherwise closes prosecution in the application.

This Statement is accompanied by a check for \$180 in accordance with 37 CFR §§1.97(c) and 1.17(p). The undersigned hereby authorizes the charging of any deficiency of fees submitted herewith to Deposit Account No. 19-5117.

37 CFR 1.8

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 9/22/05

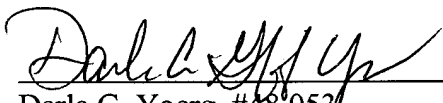
Signature:

Name: Tasha L. Pierce

The filing of this Information Disclosure Statement shall not be construed as an admission against interest in any manner. This listed patents and publications are believed of interest herein and consideration and citation of as interest by Examiner is respectfully requested.

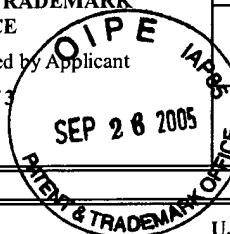
Respectfully submitted,

Date: September 22, 2005

  
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| <b>FORM PTO-1449</b> U.S. DEPARTMENT OF<br>COMMERCE PATENT<br>AND TRADEMARK<br>OFFICE<br>List of Information Cited by Applicant<br>Page 1 of 3 | <b>ATTY. DOCKET NO.</b><br>00028.09CON | <b>SERIAL NO.</b><br>10/766,149 |
|  | <b>APPLICANT</b><br>Rabinowitz, et al. |                                 |
|  | <b>FILING DATE</b><br>January 27, 2004 | <b>GROUP</b><br>1616            |



| U.S. PATENT DOCUMENTS |    |                    |            |                |     |             |              |
|-----------------------|----|--------------------|------------|----------------|-----|-------------|--------------|
| EXAM.<br>INITIAL      |    | DOCUMENT<br>NUMBER | DATE       | NAME           | CLS | SUB-<br>CLS | FILE<br>DATE |
|                       | AA | 10/057,198         | 10/26/2001 | Lloyd et al.   |     |             |              |
|                       | AB | 10/146,088         | 05/13/2002 | Hale et al.    |     |             |              |
|                       | AC | 10/280,315         | 10/25/2002 | Shen           |     |             |              |
|                       | AD | 10/302,614         | 11/21/2002 | Lu             |     |             |              |
|                       | AE | 10/322,227         | 12/17/2002 | Novack et al.  |     |             |              |
|                       | AF | 10/442,385         | 05/20/2003 | Cross et al.   |     |             |              |
|                       | AG | 10/719,540         | 11/20/2003 | Hale et al.    |     |             |              |
|                       | AH | 10/850,895         | 05/20/2004 | Damani et al.  |     |             |              |
|                       | AI | 10/851,018         | 05/20/2004 | Hale et al.    |     |             |              |
|                       | AJ | 10/851,429         | 05/20/2004 | Hale et al.    |     |             |              |
|                       | AK | 10/851,432         | 05/20/2004 | Hale et al.    |     |             |              |
|                       | AL | 10/851,883         | 05/20/2004 | Hale et al.    |     |             |              |
|                       | AM | 10/861,554         | 06/03/2004 | Cross et al.   |     |             |              |
|                       | AN | 10/912,417         | 08/04/2004 | Bennett et al. |     |             |              |
|                       | AO | 10/917,720         | 08/12/2004 | Hale et al.    |     |             |              |
|                       | AP | 10/917,735         | 08/12/2004 | Hale et al.    |     |             |              |

| FOREIGN PATENT DOCUMENTS |    |                    |            |               |     |            |            |
|--------------------------|----|--------------------|------------|---------------|-----|------------|------------|
| EXAM.<br>INITIAL         |    | DOCUMENT<br>NUMBER | DATE       | COUNTRY       | CLS | SUB<br>CLS | TRANS<br>? |
|                          | AQ | GB 502 761         | 03/24/1939 | Great Britain |     |            |            |
|                          | AR | WO 94/09842        | 05/11/1994 | WIPO          |     |            |            |
|                          | AS | WO 97/36574        | 10/09/1997 | WIPO          |     |            |            |
|                          | AT | WO 03/37412        | 05/08/2003 | WIPO          |     |            |            |

|  |    | OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)  |
|--|----|---|
|  | AU | Office Action mailed 12/04/03 for US App. No. 10/057,198 filed 10/26/01, "Method And Device For Delivering A Physiologically Active Compound" |
|  | AV | Office Action mailed 01/12/05 for US App. No. 10/057,197 filed 10/26/01, "Aerosol Generating Device And Method"                               |
|  | AW | Office Action mailed 06/03/04 for US App. No. 10/057,197 filed 10/26/01, "Aerosol Generating Device And Method"                               |
|  | AX | Office Action mailed 12/15/03 for US App. No. 10/057,197 filed 10/26/01, "Aerosol Generating Device And Method"                               |
|  | AY | Office Action mailed 02/27/04 for US App. No. 10/146,080 filed 05/13/02, "Aerosol Forming Device For Use In Inhalation Therapy"               |
| EXAMINER   |    | DATE CONSIDERED   |
| *EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and <u>not</u> considered. Include copy of this form with next communication to applicant. |    |   |

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|---|--|---------------------------------|
| <b>FORM PTO-1449 U.S. DEPARTMENT OF<br/>COMMERCE PATENT<br/>AND TRADEMARK<br/>OFFICE</b><br><br>List of Information Cited by Applicant<br><br>Page 2 of 3 | <b>ATTY. DOCKET NO.</b><br>00028.09CON | <b>SERIAL NO.</b><br>10/766,149 |
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| U.S. PATENT DOCUMENTS   |     |                    |            |                 |                 |             |              |
|---|-----|--------------------|------------|-----------------|-----------------|-------------|--------------|
| EXAM.<br>INITIAL  |     | DOCUMENT<br>NUMBER | DATE       | NAME            | CLS             | SUB-<br>CLS | FILE<br>DATE |
|   | BA  | 3,987,052          | 10/19/1976 | Hester, Jr.     |                 |             |              |
|   | BB  | 3,219,533          | 11/23/1965 | Mullins         |                 |             |              |
|   | BC  | 3,949,743          | 04/13/1976 | Shanbrom        |                 |             |              |
|   | BD  | 3,982,095          | 09/21/1976 | Robinson        |                 |             |              |
|   | BE  | 4,141,369          | 02/27/1979 | Burruss         |                 |             |              |
|   | BF  | 4,229,447          | 10/21/1980 | Porter          |                 |             |              |
|   | BG  | 4,303,083          | 12/01/1981 | Burruss, Jr.    |                 |             |              |
|   | BH  | 4,474,191          | 10/02/1984 | Steiner         |                 |             |              |
|   | BI  | 4,484,576          | 11/27/1984 | Albarda         |                 |             |              |
|   | BJ  | 4,508,726          | 04/02/1985 | Coleman         |                 |             |              |
|   | BK  | 4,566,451          | 01/28/1986 | Badewien        |                 |             |              |
|   | BL  | 4,588,721          | 05/13/1986 | Mahan           |                 |             |              |
|   | BM  | 4,708,151          | 11/24/1987 | Shelar          |                 |             |              |
|   | BN  | 4,734,560          | 03/29/1988 | Bowen           |                 |             |              |
|   | BO  | 4,735,217          | 04/05/1988 | Gerth et al.    |                 |             |              |
|   | BP  | 4,819,665          | 04/11/1989 | Roberts et al.  |                 |             |              |
|   | BQ  | 4,848,374          | 07/18/1989 | Chard et al.    |                 |             |              |
|   | BR  | 4,853,517          | 08/01/1989 | Bowen et al.    |                 |             |              |
|   | BS  | 4,863,720          | 09/05/1989 | Burghart et al. |                 |             |              |
|   | BT  | 4,906,417          | 03/06/1990 | Gentry          |                 |             |              |
|   | BU  | 4,917,119          | 04/17/1990 | Potter et al.   |                 |             |              |
|   | BV  | 4,924,883          | 05/15/1990 | Perfetti et al. |                 |             |              |
|   | BW  | 4,941,483          | 07/17/1990 | Ridings et al.  |                 |             |              |
|   | BX  | 4,963,289          | 10/16/1990 | Ortiz et al.    |                 |             |              |
|   | BY  | 5,017,575          | 05/21/1991 | Golwyn          |                 |             |              |
|   | BZ  | 5,042,509          | 08/27/1991 | Banerjee et al. |                 |             |              |
|   | BAA | 5,060,671          | 10/29/1991 | Counts et al.   |                 |             |              |
|   | BBB | 5,099,861          | 03/31/1992 | Clearman et al. |                 |             |              |
|   | BCC | 5,135,009          | 08/04/1992 | Muller et al.   |                 |             |              |
|   | BDD | 5,144,962          | 09/08/1992 | Counts et al.   |                 |             |              |
|   | BEE | 5,146,915          | 09/15/1992 | Montgomery      |                 |             |              |
|   | BFF | 5,166,202          | 11/24/1992 | Schweizer       |                 |             |              |
|   | BGG | 5,224,498          | 07/06/1993 | Deevi et al.    |                 |             |              |
|   | BHH | 5,240,922          | 08/31/1993 | O'Neill         |                 |             |              |
| EXAMINER  |     |                    |            |                 | DATE CONSIDERED |             |              |
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| EXAM.<br>INITIAL  |     | DOCUMENT<br>NUMBER | DATE       | NAME                   | CLS | SUB-<br>CLS | FILE<br>DATE |
|   | CA  | 5,345,951          | 09/13/1994 | Serrano et al.         |     |             |              |
|   | CB  | 5,366,770          | 11/22/1994 | Wang                   |     |             |              |
|   | CC  | 5,456,247          | 10/10/1995 | Shilling et al.        |     |             |              |
|   | CD  | 5,511,726          | 04/30/1996 | Greenspan et al.       |     |             |              |
|   | CE  | 5,457,100          | 10/10/1995 | Daniel                 |     |             |              |
|   | CF  | 5,543,434          | 08/06/1996 | Weg                    |     |             |              |
|   | CG  | 5,564,442          | 10/15/1996 | MacDonald et al.       |     |             |              |
|   | CH  | 5,655,523          | 08/12/1997 | Hodson et al.          |     |             |              |
|   | CI  | 5,592,934          | 01/14/1997 | Thwaites               |     |             |              |
|   | CJ  | 5,605,146          | 02/25/1997 | Sarela                 |     |             |              |
|   | CK  | 5,649,554          | 07/22/1997 | Sprinkel et al.        |     |             |              |
|   | CL  | 5,666,977          | 09/16/1997 | Higgins et al.         |     |             |              |
|   | CM  | 5,743,251          | 04/28/1998 | Howell et al.          |     |             |              |
|   | CN  | 5,819,756          | 10/13/1998 | Mielordt               |     |             |              |
|   | CO  | 5,840,246          | 11/24/1998 | Hammons et al.         |     |             |              |
|   | CP  | 5,855,913          | 01/05/1999 | Hanes et al.           |     |             |              |
|   | CQ  | 5,874,481          | 02/23/1999 | Weers et al.           |     |             |              |
|   | CR  | 5,894,841          | 04/20/1999 | Voges                  |     |             |              |
|   | CS  | 5,918,595          | 07/06/1999 | Olsson et al.          |     |             |              |
|   | CT  | 6,048,857          | 04/11/2000 | Ellinwood, Jr. et al.  |     |             |              |
|   | CU  | Re.36,744          | 06/20/2000 | Goldberg               |     |             |              |
|   | CV  | 6,090,212          | 07/18/2000 | Mahawili               |     |             |              |
|   | CW  | 6,131,570          | 10/17/2000 | Schuster et al.        |     |             |              |
|   | CX  | 6,136,295          | 10/24/2000 | Edwards et al.         |     |             |              |
|   | CY  | 6,140,323          | 10/31/2000 | Ellinwood, Jr. et al.  |     |             |              |
|   | CZ  | 6,155,268          | 12/05/2000 | Takeuchi               |     |             |              |
|   | CAA | 6,158,431          | 12/12/2000 | Poole                  |     |             |              |
|   | CBB | 6,234,167          | 05/22/2001 | Cox et al.             |     |             |              |
|   | CCC | 6,413,930          | 07/02/2002 | Ratti et al.           |     |             |              |
|   | CDD | 6,632,047          | 10/14/2003 | Vinegar et al.         |     |             |              |
|   | CEE | 6,701,922          | 03/09/2004 | Hindle et al.          |     |             |              |
|   | CFF | 6,772,756          | 08/10/2004 | Shayan                 |     |             |              |
|   | CGG | 2002/0117175       | 08/29/2002 | Kottayil et al.        |     |             |              |
|   | CHH | 2004/0016427       | 01/29/2004 | Byron et al.           |     |             |              |
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